
STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-12 **Legistar #:** 20140432

Board of Zoning Appeals Hearing: Monday, May 19th, 2014

Property Owner: Paul T & Anne G. Cundiff
152 Wright Street
Marietta, GA 30064

Address: 152 Wright Street

Land Lot: 12300 **District:** 16 **Parcel:** 0470

Council Ward: 3A

Existing Zoning: R-4 (Single Family Residential 4 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the side setback for a guest home from 20' to 5.' [§708.04 (C.1.a.)]
2. Variance to reduce the setback between a guest home and the principal structure from 10' to 2.' [§708.04 (C.1.a.)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



152 Wright Street



Proposed location of guest home

Recommended Action:

Approval with stipulations. Paul and Anne Cundiff are requesting variances for the property located at 152 Wright Street. This property, as well as all adjacent properties, is zoned R-4 (Single Family Residential – 4 units/acre) and contains a single family detached dwelling. The applicants are requesting variances that would allow the construction of a guest home in the backyard of the subject property. The guest home will be occupied by the applicants' mother.

The property is located in an older part of the city where many of the homes and structures do not comply with more contemporary and spacious setback requirements. Setbacks for guest homes in R-4 are twenty (20) feet from any property line and ten (10) feet from the principal structure. The applicant is requesting a variance to reduce the side setback from twenty (20) feet to five (5) feet and to reduce the spacing between the main house and the guest home from ten (10) feet to two (2) feet. Since the property is very deep, there should be no issue complying with the twenty (20) foot setback off of the rear property line.

The typical setback from the property line for a detached garage is ten (10) feet, if the structure is less than fifteen (15) feet tall. Detached garages do not have to be a certain distance from the home; however, if attached, they must adhere to the standard setbacks for the zoning district, which is also ten (10) feet from the side. Additional side setbacks for guest homes are more restrictive than those for main dwellings or detached garages because an additional unit is being added to a lot designated for single family use only. However, if the guest home were permanently attached to the main house and not considered a separate dwelling unit, it would be subject to a ten (10) foot side setback and thirty (30) foot rear setback. There is well established precedent for approving residential side setback variances, both for main structure and detached accessory structures:

Case #	Date	Address	Variance
V2003-04	2/24/03	185 Nancy Street	Variance to reduce the side yard setback from 10 feet to 2 feet. (<i>Attached garage</i>)
V2009-10	5/18/09	176 Stewart Ave	Variance to reduce the side yard setback from 10 feet to 3.9 feet. (<i>Main house</i>)
V2009-24	11/30/09	90 Stewart Ave	Variance to reduce side setback from 10 ft. to approximately 3 ft. (<i>Main house</i>) Variance to reduce side building setback from 10 ft. to .6 ft. (<i>Main house</i>)
V2010-16	7/26/10	257 Hunt St	Variance to reduce the rear and side setbacks for an accessory structure from 10' to 0'. (<i>Shed</i>)
V2013-04	1/28/13	548 Church St	Variance to reduce the major side setback from 25 ft. to 10 in. (<i>Attached garage</i>)

Should the variances be approved as submitted, it should be noted that if the construction cost of building the guest house exceeds 50% of the replacement cost of the existing home (tax value shows \$132,990), the entire site will have to come up to code. Although the setbacks on the existing home would not likely present a problem, city code does not allow gravel driveways as an approved surface. The gravel drive is currently considered to be grandfathered. However, if the construction cost exceeds this threshold, the driveway will have to be paved using asphalt, concrete, or brick.

There may also be some concern about the eventual use of the guest structure as a rentable unit. Although, Section 714.04 (C.1.c.) prohibits the use of guest homes by paying guests or tenants, it is difficult to enforce once the unit is established.

The use of this structure as a guest home by the applicant's mother should not negatively impact the surrounding properties or community any more than an addition to the principal structure. As a result, **Staff recommends approval of this variance request** with the following stipulations:

1. If the construction cost of building the guest house exceeds 50% of the replacement cost of the existing home, the existing gravel drive must be paved with asphalt, concrete, or brick.
2. Occupancy of the guest home be limited to non-paying relatives, as required in §708.04 (C.1.c).